

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 SS-15 CIAE-00 DODE-00 NSAE-00
NSCE-00 SSO-00 ICAE-00 INRE-00 CAB-02 COME-00
DOTE-00 EB-08 INR-10 FAA-00 L-03 H-01 PA-01
NEA-10 /063 W
-----092000 121800Z /46
O 121736Z SEP 78
FM AMEMBASSY BONN
TO SECSTATE WASHDC IMMEDIATE 1793

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PASS TO UNDER SEC. COOPER: PASS IMMEDIATE TO CAB AND DOT

E.O. 11652: N/A
TAGS: EAIR, GW
SUBJECT: USG-FRG CIVAIR NEGOTIATIONS, FIRST REPORT

1. SUMMARY. NEGOTIATIONS COMMENCED WITH MORNING AND AFTERNOON SESSIONS. DISCUSSIONS DEALT PRINCIPALLY WITH RATE ARTICLE, WITH GERMANS STATING THEY COULD ACCEPT COUNTRY-OF-ORIGIN REGIME BUT NOT ISRAELI ARTICLE. ALSO, FRG WOULD ACCEPT US PUBLIC CHARTER RULES EX-US, PROVIDED SOME GUARANTEES WERE GIVEN AGAINST DIRECT SALES OF CHARTER SEATS AND ONE-WAY CHARTERS. FRG CONTINUED TO STATE THAT U.S. PROPOSALS WERE TOO FAR REACHING, BUT IT WAS WILLING THROUGHOUT THE DAY TO HAVE DISCUSSION BASED ON U.S. POSITION PAPER.

2. DISCUSSIONS OF RATE ARTICLES WERE EXTENSIVE, BUT NEITHER SIDE HAS YET VARIED ITS POSITION. GERMANS AT FIRST CLAIMED THAT THERE WERE INSURMOUNTABLE PROBLEMS UNDER GERMAN LAW WITH ISRAELI ARTICLE, BUT IT DEVELOPED THAT THEIR POINT WAS ONLY THAT IT WOULD

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BE DIFFICULT TO OBTAIN NEEDED LEGISLATIVE RATIFICATION IN LIGHT OF THE PERCEIVED SURRENDER OF SOVEREIGNTY. IT SEEMED CLEAR THAT FRG WOULD NEED NEW INSTRUCTIONS TO GO BEYOND DUTCH CLAUSE. GERMANS IN PARTICULAR STATED OPPOSITION TO PROVISION ON PRICE-LEADERSHIP FOR THIRD-FLAG CARRIERS BUT AGREEMENT ON RIGHT OF US AND FRG AIRLINES TO MATCH THIRD-AND FOURTH-FREEDOM

AIRLINE FARES ON THEIR FIFTH-FREEDOM OPERATIONS. FRG PRESSED FOR A COUNTRY-OF-ORIGIN REGIME AND MAINTAINED THAT U.S. CONCERNS ABOUT MISUSE TO FAVOR FRG AIRLINES COULD BE SATISFIED BY CAREFUL DRAFTING.

3. ON ROUTE RIGHTS, FRG STATED SATISFACTION WITH U.S. PROPOSAL TO EXCHANGE OPEN RIGHTS FOR THIRD-AND FOURTH-FREEDOM OPERATIONS, STATING THAT THIS WOULD ESTABLISH LONG-OVERDUE EQUALITY OF OPPORTUNITY. FRG ALSO SAID IT WOULD GIVE U.S. CARRIERS OPEN BEYONDS WITHOUT DIRECTIONAL LIMITATIONS, PROVIDED FRG CARRIERS WERE GIVEN THE SAME RIGHTS. ON CAPACITY PROVISIONS, FRG AGREES TO ELIMINATION OF THIRD-AND FOURTH-FREEDOM RESTRAINTS BUT BELIEVES THAT FIFTH-FREEDOM CAPACITY PROVISIONS SHOULD CONTINUE TO RECOGNIZE PRIMACY OF THIRD-AND FOURTH-FREEDOM CARRIERS.

4. ON CHARTER OPERATIONS, FRG STATED THAT IN CONTEXT OF A GOOD AGREEMENT IT WOULD BE PREPARED TO ACCEPT PUBLIC CHARTERS FROM U.S., PROVIDED GUARANTEES WERE GIVEN THAT CHARTER OPERATORS WOULD NOT RETAIL THEIR OWN SEATS AND THAT ONE-WAY CHARTERS WOULD NOT BE CONDUCTED. (THIS LIST OF QUALIFICATIONS ON A COUNTRY-OF-ORIGIN REGIME MAY NOT BE EXHAUSTIVE.) RE FRG CHARTER RULES, A HEARING WITH TOUR OPERATORS WAS HELD EARLY THIS MONTH AND FRG AUTHORITIES ARE NOW LIMITED OFFICIAL USE

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CONSIDERING POSSIBLE LIBERALIZATIONS IN THE AREAS OF ADVANCE BOOKING PERIOD, MINIMUM STAY, MINIMUM GROUP SIZE, AND SUBSTITUTION. CHANGES WOULD BE PUBLISHED BY END OF SEPTEMBER. FRG INDICATED RELUCTANCE TO NEGOTIATE ITS OWN RULES, PRESUMABLY FOR REASONS OF SOVEREIGNTY.

5. FRG STATED NO OBJECTION TO US POSITION ON MULTIPLE DESIGNATION.

6. ISSUE OF INTERMEDIATE RIGHTS WAS NOT DISCUSSED EXCEPT FOR U.S. STATEMENT THAT IT WAS FLEXIBLE AND FRG STATEMENT THAT IT WAS LOSING INTEREST IN INTERMEDIATES AND WOULD PROBABLY ACCEPT THEIR ELIMINATION COMPLETELY FROM THE AGREEMENT.

7. NO DISCUSSION YET OF ISSUE OF NON-DISCRIMATORY MARKET ACCESS EXCEPT IN CONTEXT OF RATE ARTICLE. SEABOARD REP ADVISED USDEL PRIOR TO TALKS THAT CARGO

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TERMINAL PROBLEM IS VIRTUALLY SOLVED.

8. PAN AM ADVISED USDEL IMMEDIATELY PRIOR TO TALKS THAT EFFECTIVE JANUARY 18 ITS ROUND-THE-WORLD LIGHT WILL FLY NONSTOP BETWEEN LONDON AND TEHRAN, ELIMINATING STOP AT FRANKFURT. THIS, COMBINED WITH EARLIER FN AM ANNOUNCEMENT ON EASTERN EUROPE, SHOULD ELIMINATE ALL PENDING FIFTH-FREEDOM DISPUTES WITH /RG. ACCORDINGLY, THERE DOES NOT APPEAR TO BE ANY PRESSURE ON US TO REACH IMMEDIATE ACCORD WITH FRG.

9. /RG CHAIRMAN'S OPENING STATEMENT ON TALKS SUGGESTED /RG PREFERRED EFFORTS TO REACH AGREEMENT ON A LIMITED NUMBER OF ISSUES THIS WEEK, WITH OTHER ISSUES TO BE DEFERRED UNTIL THE RESULTS OF IMMEDIATE AGREEMENT ARE KNOWN. BASIC ELEMENTS OF IMMEDIATE AGREEMENT SHOULD BE (1) EQUALITY ON ROUTE RIGHTS FOR THIRD-AND FOURTH-FREEDOM TRAFFIC, (2) A LIBERAL CHARTER REGIME, (3) A LIBERAL TARIFF REGIME, AND (4) A LIBERAL CAPACITY PROVISION. USDEL DISCOURAGED DISCUSSION OF A LIMITED AGREEMENT, BUT FROM
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SUBSEQUENT DISCUSSION IT APPEARS THAT ITEM 2 MEANS A COUNTRY-OF-ORIGIN REGIME WITH QUALIFICATION STATED ABOVE, ITEM 3 MEANS A DUTCH CLAUSE, AND ITEM 4 MEANS ELIMINATION OF CAPACITY PROVISIONS FOR THIRD-AND FOURTH-FREEDOM TRAFFIC ONLY. ITEM L APPEARS TO MEAN GRANT OF MIAMI TO FRG, BUT POSSIBLE THAT FRG DEMANDS ARE GREATER. IT IS ALSO POSSIBLE THAT ITEMS 2 THROUGH 4 MAY PROVE TO BE SOMEWHAT NARROWER IF AND WHEN WE GET TO THE DETAILS OF A LIMITED AGREEMENT.

- USDEL DOES NOT BELIEVE IT NEEDS FURTHER INSTRUCTIONS AT THIS POINT. CRITICAL ISSUE IS WHETHER FRG WILL BITE BULLET ON RATE ARTICLE.

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: NEGOTIATIONS, MEETING REPORTS, SUPPLEMENTAL AIRLINES, AIR ROUTES
Control Number: n/a
Copy: SINGLE
Draft Date: 12 sep 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978BONN16692
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D780370-1089
Format: TEL
From: BONN
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t19780974/aaaacire.tel
Line Count: 185
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: e6d9df51-c288-dd11-92da-001cc4696bcc
Office: ACTION EUR
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 05 may 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: N/A
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1458599
Secure: OPEN
Status: NATIVE
Subject: USG-FRG CIVAIR NEGOTIATIONS, FIRST REPORT
TAGS: EAIR, GE, US, IS
To: STATE
Type: TE
vdkgvwkey: odhc://SAS/SAS.dbo.SAS_Docs/e6d9df51-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014